

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

THOMAS PENNAVARIA,

Petitioner,

v.

**Civil Action No. 5:07cv29
(Judge Stamp)**

DOMINIC A. GUTIERREZ, Sr., Warden,

Respondent.

ORDER DENYING MOTION AS MOOT

On February 23, 2007, the *pro se* petitioner filed an Application for Habeas Corpus pursuant to 28 U.S.C. §2241, seeking an order directing the Bureau of Prisons to immediately transfer him to home confinement and award him a minimum of 30 days extra good time credit. On April 4, 2007, the respondent filed his Motion to Dismiss and Response to Show Cause Order. On April 5, 2007, a Roseboro Notice was issued, and on April 23, 2007, the petitioner filed objections to the Motion to Dismiss.

Thereafter, on July 17, 2007, the petitioner filed a Motion for Leave to submit additional evidence and supplement his petition with evidence from the sentencing court in the Eastern District of Pennsylvania. (Doc. 13). The purpose of the petitioner's motion was to request as further relief that this Court correct his sentence from 72 months to 60 months and order the BOP to honor the sentencing judge's transfer recommendation to the satellite Camp in Atwater, California. On August 28, 2007, the petitioner filed a Memorandum of Judicial Notice in which he advised this Court that the sentencing judge in the Eastern District of Pennsylvania had corrected his sentence to 60 months. In addition, the petitioner noted that he had been advised that the paperwork to transfer him to the prison camp in Atwater, California would commence. Therefore, the petitioner requested that this Court consider as moot his arguments regarding the sentence correction and transfer to the prison camp in Atwater, California.

Accordingly, the plaintiff's Motion for Leave (Doc. 13) is **DENIED** as moot.

IT IS SO ORDERED.

The Clerk is directed to provide a copy of this Order to the petitioner and counsel of record.

DATED: November 28, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE